

Exhibit H

DEPOSITION OF DET. CHRIS McGIBONEY

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

--o0o--

AG.G. a minor, by and through)
his guardian ad litem, JESSICA)
AQUINO; AR.G., a minor, by and)
through his guardian ad litem,)
JESSICA AQUINO; KARLA GONSALEZ)
individually; and AUGUSTIN)
GONSALEZ, JR., individually,)
)
)
Plaintiffs,)
)
)
vs.) CASE NO.: 4:19-cv-00697 DMR
)
CITY OF HAYWARD, a municipal)
corporation; MARK KOLLER,)
individually; PHILLIP WOOLEY,)
individually; MICHAEL CLARK,)
individually; TASHA DECOSTA,)
individually; and DOES 1-100,)
inclusive,)
)
Defendants.)
_____)

CERTIFIED COPY

DEPOSITION OF DET. CHRIS McGIBONEY - PMK

MONDAY, JANUARY 27, 2020

REPORTED BY: KELLY L. MCKISSACK, CSR #13430

1

DEPOSITION OF DET. CHRIS McGIBONEY

1 required to carry?

2 A. On their person?

3 Q. Or in their car.

4 A. Oh, okay. Both would be their OC pepper spray
5 as well as a Taser.

6 Q. What about in their car?

7 A. As patrol officers they won't have any other
8 impact munitions besides maybe a long baton.

9 Q. And so -- and I'm sorry. The less lethal
10 impact munitions that you're an expert in or that you
11 train in or what?

12 A. That would be the 40-millimeter exact impact
13 launcher, the bean bag shotgun, as well as the FN303.

14 Q. And the FN303, what is that?

15 A. Pepper balls.

16 Q. Okay. And for each shift at the Hayward
17 Police Department is there -- is there a requirement
18 that those less lethal weapons that you just described
19 be made available to officers if they need them?

20 A. Yes.

21 Q. That means that someone who's qualified has to
22 be available on shift; is that right?

23 A. All patrol officers are qualified.

24 Q. All patrol officers are trained in the
25 40-millimeter, the bean bag gun and the pepper ball gun?

DEPOSITION OF DET. CHRIS McGIBONEY

1 A. Not the pepper ball gun.

2 Q. Okay. So all Hayward police officers are
3 qualified on the 40-millimeter and bean bag gun,
4 correct?

5 A. Yes, sir.

6 Q. How are they -- how are those weapons
7 distributed in a manner that they may be made available
8 for use if needed?

9 A. They are carried in supervisor cars.

10 Q. And what -- how are supervisors designated,
11 which supervisors?

12 A. Sergeant vehicles.

13 Q. And is that all sergeants?

14 A. Yes, sir.

15 Q. And in this case I think Sergeant DeCosta was
16 present at the scene. Do you know if she carries those
17 weapons, the 40-millimeter and bean bag gun?

18 A. Yes, sir.

19 Q. Yes, she does?

20 A. Yes.

21 Q. And they would be in the trunk?

22 A. I believe so.

23 Q. And what about the pepper ball gun, does she
24 carry that too?

25 A. No, sir.

DEPOSITION OF DET. CHRIS McGIBONEY

1 DECLARATION OF WITNESS

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I hereby declare I am the deponent in the
within matter; that I have read the foregoing deposition
and know the contents thereof, and I declare that the
same is true of my knowledge except as to the matters
which are therein stated upon my information or belief,
and as to those matters, I believe them to be true.

I declare under the penalties of perjury of the
State of California that the foregoing is true and
correct.

Executed this _____ day of _____,
20____, at _____, _____.
(City) (State)

CHRIS McGIBONEY

DEPOSITION OF DET. CHRIS McGIBONEY

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF ALAMEDA)
4

5 I hereby certify that the witness, Chris
6 McGiboney, in the foregoing deposition appeared before
7 me, Kelly McKissack, a Certified Shorthand Reporter and
8 a disinterested person.

9 Said witness was then and there at the time
10 and place previously stated by me placed under oath to
11 tell the truth, the whole truth and nothing but the
12 truth in the testimony given on the date of the within
13 deposition; that the deposition is a true record of the
14 witness' testimony as reported by me.

15 The testimony of the witness and all questions
16 and remarks requested by Counsel was reported under my
17 direction and control, caused to be transcribed into
18 typewritten form by means of Computer-Aided
19 Transcription.

20 I am a Certified Shorthand Reporter licensed
21 by the State of California, and I further certify that I
22 am not interested in the outcome of the said action, nor
23 connected with, nor related to any of the parties in
24 said action, nor to their respective counsel. I am not
25 of counsel or attorney for either or any of the parties
to the case named in the within caption.

26 IN WITNESS WHEREOF, I have hereunto affixed my
27 signature this 10th day of February, 2020

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DEPOSITION OF DET. CHRIS McGIBONEY

1 WITNESS LETTER

2 TO: Det. Chris McGiboney Date: 03.06.20
c/o Michael G. Vigilia, Sr. Asst. City Attorney
3 CITY OF HAYWARD Depo: 01.27.20
777 B Street Ref. #20012703B
4 Hayward, CA 94541

5 RE: AG.G...J.Aquino; K.Gonsalez v. City of Hayward, et al.

6 Dear Det. McGiboney:

7 Please be advised that the transcript of your
deposition taken in the above matter has been completed
8 and is now available at this office for your reading and
signing.

9 Please contact our office between the hours of 9:30
a.m. and 5:00 p.m. Monday-Friday, to schedule an
10 appointment. Or, if you prefer, contact the attorney to
review and sign the copy of your deposition under penalty
11 of perjury.

12 Read the transcript making any changes necessary.
In making any changes, please use the following guide:

- 13 1. DO NOT WRITE on the original transcript.
- 14 2. SIGN UNDER PENALTY OF PERJURY at the end of the
Deposition on the Certificate of Witness Page.
- 15 3. List each change on the Deposition Errata Sheet
following this page. Signature is required at
the bottom of the Errata Sheet.
- 16 4. Forward the signed Certificate of Witness Page
and signed Errata Sheet in addition to a copy of
this letter to:

17 Barbara J. Butler & Associates
Certified Court Reporters
18 P.O. Box 3508, Santa Clara, CA 95055
(510) 832-8853 or (408) 248-2885.

19 Upon receipt of items requested in this letter, I
will forward copies of same to all Counsel.

20 In the event you have not reviewed your deposition
within 35 days or by trial date, whichever is sooner, the
21 original transcript will be sealed pursuant to applicable
laws and thereafter mailed to the deposing attorney.

22 Sincerely,

23 /s/Barbara J. Butler
24 Barbara J. Butler, CSR

25 cc: All Counsel